

MERCURY DRUG CORPORATION, LOS BANOS BRANCH, PETITIONER, VS. THE NATIONAL LABOR RELATIONS COMMISSION, PROSSERPINA PRESIDENTE, RESPONDENTS.

G.R. No. 96525. June 26, 1992

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for review on certiorari of the resolution* dated November 29, 1990 of public respondent National Labor Relations Commission (NLRC) in NLRC Case No. RB-IV-4-2122-87 entitled "PROSSERPINA PRESIDENTE, Complainant vs. MERCURY DRUG CORPORATION, LOS BANOS BRANCH, Respondent" affirming the decision** of the Labor Arbiter dated February 27, 1989 finding that the private respondent Prosserpina Presidente was illegally dismissed and ordering the petitioner to reinstate her to her former position with full backwages, salary for the period March 16 to 30, 1987; and attorney's fees equivalent to 10% of the total award.

The undisputed facts are as follows:

Private respondent Prosserpina Presidente started working with petitioner Mercury Drug Corporation (Mercury Drug, for brevity) as Pharmacy Assistant at its Calamba Branch on November 17, 1980. She was later assigned on May 10, 1983 to its Los Banos Branch, then under Mr. Willie Hidalgo as Manager (TSN, p. 21; October 27, 1987).

Since Mercury Drug operated its branch in Los Banos, sales were always below the quota. To drum up sales and create goodwill, Mr. Hidalgo devised some schemes, one of which was the accommodation of reasonable requests by the customers, such as reflecting in the original receipt, purchases made by the customers in other Mercury Drug branches without receipts but only cash register tapes, and to reflect only the actual purchases made in the Los Banos branch in the duplicate and triplicate copies of such receipts which are retained by the company. Of course, this is done only after presentation of duly validated cash register tapes as proof of purchase. This was done especially for regular customers and most often, to accommodate the need for official receipts in case of refunds from SSS, Medicare, GSIS or private firms, provided the company does not incur any losses. And this practice was carried on even after Mr. Hidalgo had left the Los Banos branch (Exhibit E, p. 89; Records; TSN, pp. 15-16, 40-41, October 27, 1987; TSN, pp. 7-11, December 3, 1987; TSN, pp. 19-22, August 12, 1987).

Sometime in December 1986, private respondent was requested by Mr. Genaro Revilla, a regular customer, to issue a receipt on a previously purchased medicine based on the cash register tape. Receipt No. 21272 was accordingly issued by private respondent and validated by Remedios de Luna, the Cashier of Mercury Drug Los Banos (TSN, pp. 15-16, 21-31, October 27, 1987; TSN, p. 12, August 12, 1987).

On February 24, 1987, private respondent was again requested by Mr. Genaro Revilla to add in Cash Invoice No. 492290 the cost of three (3) vials of Rocephine, one (1) grain, which were purchases from another branch of petitioner without receipt. This request was referred by private respondent to Mrs. de Luna who agreed and

validated the duplicate and triplicate copies of said cash invoice (Annex F; TSN, pp. 19-20, August 12, 1987).

Sometime after, the company decided to replace Mr. Hidalgo as Manager of its Los Banos Branch, and Mr. Sammy Carpio was eventually appointed Manager, assuming office on March 1, 1987 (Annex J, p. 8; Annex I, p. 6; TSN, p. 24, August 12, 1987).

On March 7, 1987, Mr. Carpio called all the employees to a meeting where he advised them to be "very vigilant for unusual events or suspicious action of their co-employees and to report such incident to him" (Annex F, p. 3). Two days later, Mrs. de Luna approached Mr. Carpio and reported against private respondent, alleging that on February 24, 1987, private respondent went to her for the punching or machine validation of the duplicate of a cash slip evidencing payment for items bought from said branch store; that after validating the duplicate of a cash slip, she saw that the original slip was blank; that private respondent proceeded to the calculator and started to compute; and that when her curiosity was aroused, she waited for the total sum to appear on the window box of the calculator and what appeared was more than P1,000.00 (Annex F, p. 4).

On March 23, 1987, private respondent was ordered by Mr. Carpio to proceed posthaste to petitioner's main office at Libis, Quezon City. Arriving at said place at around 10:15 a.m., she was ushered to the office of Mr. Dizon, petitioner's Assistant Vice-President for Operation. Inside were Mr. Dizon, Mr. Carpio and Mr. Carlitos Villacorte, the District Manager of S-4 covering Mercury Drug Los Banos (TSN, p. 23, 32-33, August 12, 1987; Annex D).

In the presence of these three officers, private respondent was asked to explain the February 24, 1987 incident. Then, one after the other, they threatened to dismiss and charge her criminally unless she resigned (Annex D). Surprised at their demeanor, private respondent intimidated to them that she needed time to think things over and asked to be allowed to go home for she was already hungry. However, Mr. Villacorte refused to let her go unless she made a resignation paper and, thereupon, she was provided with a pen and yellow paper. Overwhelmed by the threats and pressure, she wrote and signed a resignation as dictated by Mr. Villacorte (TSN, pp. 36-40, June 6, 1988).

Feeling that she was made to resign against her will, private respondent, on April 23, 1987, filed a complaint for illegal dismissal with the Arbitration Branch of public respondent National Labor Relations Commission (NLRC) (Record, pp. 1-2). This complaint was later amended to include a prayer for "unpaid salary from March 16, 1987 to March 30, 1987, moral and exemplary damages plus attorney's fees" (Ibid., p. 9).

On February 27, 1989, the Labor Arbiter rendered its decision, the dispositive portion of which reads as follows:

"WHEREFORE, premises considered, judgment is hereby rendered against respondent and in favor of complainant, ordering respondent to reinstate complainant to her former position with full backwages, salary for the period March 16 to 30, 1987; and attorney's fees equivalent to 10% of the total award.

All other claims are dismissed for lack of merit.

SO ORDERED." (p. 47, Rollo)

Not satisfied, petitioner appealed the decision to public respondent NLRC which issued the following resolution dated November 29, 1990:

"WHEREFORE, premises considered, the appeal is hereby DISMISSED for lack of merit and the decision appealed from Affirmed.

SO ORDERED." (p. 82, Rollo)

Hence, this petition.

In its resolution dated August 5, 1991, the Second Division of this Court gave due course to this petition (Rollo, p. 150).

Petitioner imputes grave abuse of discretion on the part of the NLRC: (1) in asserting that there is no company regulation against falsification of cash slips/receipts in disregard of the provisions of the Revised Penal Code and the Labor Code; (2) in asserting that there is no company regulation against falsification of cash slips/receipts contrary to the evidence presented by petitioner and by the admissions of private respondent herself; and (3) in finding the acts of falsification were tolerated by the company.

Petitioner contends that private respondent's act of adding the purchases from other branches of petitioner to the original receipt is an act of falsification which is punishable under the Revised Penal Code, hence, a ground for dismissal.

In the case at bar, although private respondent admitted having inserted additional items in the original copy (customer's copy) of the cash slips/receipt which were not actually bought by the customer at Mercury Drug - Los Banos Branch where she was working, this fact alone will not constitute the crime of falsification as defined under Article 172 of the Revised Penal Code.

The crime of falsification of a private document defined under Article 172, paragraph 2 of the Revised Penal Code "is not committed by the mere falsification of the document. It does not suffice that the document itself be false, but there must also be proved the prejudice caused to a third person or the intention to cause it" (Aquino, Criminal Law, Vol. II, 1987 ed., p. 264).

It must be noted that it was Mr. Willie Hidalgo, former branch manager who introduced the scheme of reflecting in the original receipt of the Los Banos Branch purchases made by customers in other Mercury Drug branches. This scheme was continued even after Mr. Hidalgo left the company. Private respondent was merely following his directive. She even thought that said scheme would work to the advantage of petitioner as goodwill to the buying public and at the same time helping customers collect reimbursement of medicinal expenses. On the other hand, petitioner admitted that no losses were incurred by the company when private respondent issued the subject receipts (Annex 7, p. 7). Hence, no proof of prejudice or intention to cause the same on the part of private respondent was shown.

Anent the second intention that petitioner has no company regulation against falsification, this Court finds that although the company rules and regulations were never presented as evidence, the testimony of private respondent herself clearly shows the existence of such company rules and regulations, to wit:

CROSS EXAMINATION:

ATTY. VALBUENA:

(TO THE WITNESS)

Now, Mrs. Witness you are aware of company-policies?

WITNESS:

I am very much aware of the company policies . . . according to the manual.

xxx xxx xxx

ATTY. VALBUENA:

And you will agree with me that falsification of document fall under Type D?

WITNESS:

Type D offense is falsification of company records. (TSN, pp. 17-18, August 12, 1987).

The above notwithstanding, the scheme introduced by no less than the Branch Manager, admittedly did not cause any damage to third persons, much less to the petitioner. On the contrary, as earlier stated, it was intended to boost the sale of the petitioner and at the same time help the customers in the reimbursement of their medicinal expenses. By and large, the collation of all customers' purchases from the other branches of petitioner for reimbursement purposes is a statement of the truth without any additional advantage to private respondent but rather the performance of additional tasks beyond the call of duty which ironically earned for her not a well deserved praise but the filing of charges for dismissal.

Petitioner further contends that the said scheme was not tolerated by the company. This Court finds that although no evidence was presented to show that higher management was aware of such scheme more so of having tolerated such acts, however, evidence on record shows that indeed the said scheme was being practiced at the Los Banos Branch from the time it was introduced by its former manager and should have been noticed and corrected by the present manager. Failing to do so, the blame cannot now be visited on subordinates who have no choice but to follow.

Lastly, it is a well-settled rule that findings of fact of administrative bodies, if based on substantial evidence, are controlling on the reviewing authorities (*Planters Products, Inc. v. NLRC*, G.R. No. 78524 & 78739, January 20, 1989; 169 SCRA 328).

PREMISESS CONSIDERED, the decision of the NLRC is AFFIRMED.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, and Regalado, JJ., concur.

Nocon, J., on leave.

* Penned by Commissioner Rogelio I. Rayala and concurred in by Commissioners Lourdes C. Javier and Ireneo B. Bernardo.

** Penned by Executive Labor Arbiter Pastor I. Alvarez.

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